

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BERNEST BENJAMIN,

Petitioner,

v.

No. 17-cv-1274 JCH/SMV

**ATTORNEY GENERAL OF THE
STATE OF NEW MEXICO and GERMAN FRANCO,**

Respondents.

ORDER GRANTING PETITIONER'S MOTION TO RECONSIDER

THIS MATTER is before the Court on Petitioner Bernest Benjamin's Motion to Reconsider Court Costs Forthwith [Doc. 15], filed on July 13, 2018. In his motion, Petitioner asks the Court to reconsider its June 19, 2018 order requiring Petitioner to pay \$.50 per page in copying costs [Doc. 14], in light of a letter from the Acting Clerk of Court, Mitchell R. Elfers, by Denisse Rincon, Deputy Clerk, charging Petitioner \$.10 per page in copying costs, [Doc. 15] at 2. The statutory fee for copying costs is \$.50 per page, *see* 28 U.S.C. § 1914(b), and the Clerk of Court is required to "charge the statutory fee to provide copies of documents," *see* D.N.M.LR-Civ. 79.3. However, the Clerk's Office previously informed Petitioner that he could obtain copies of all the documents in his prior § 2254 proceeding at the cost of \$.10 per page. [Doc. 15] at 2. The Court will vacate its June 19, 2018 Order requiring Petitioner to pay \$.50 per page. *See Been v. O.K. Industries, Inc.*, 495 F.3d 1217, 1225 (10th Cir. 2007) (noting that "district courts generally remain free to reconsider their earlier interlocutory orders").

The deadline for the submission of Petitioner's written response to the Court's April 18, 2018 Order to Show Cause [Doc. 9] remains unchanged. Petitioner must submit his written

response on or before **July 19 2018**. [Doc. 14]. Failure to file a timely written response may result in the dismissal of Petitioner's § 2254 petition without further notice.

IT IS THEREFORE ORDERED that Petitioner's Motion to Reconsider Court Costs Forthwith [Doc. 15] is **GRANTED**. The Court's June 19, 2018 Order Granting Petitioner's Motion For Extension of Time [Doc. 14] is VACATED IN PART, *only* insofar as it required Petitioner to submit \$.50 per page in copying costs; Petitioner may obtain copies of the documents on the docket in his prior § 2254 proceeding at the cost of \$.10 per page in accordance with the Acting Clerk of Court's letter.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge